

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**SANDRA V. SMITH**

Claimant

VS.

**MEDICINE LODGE MEMORIAL HOSPITAL**

Respondent

AND

**KANSAS HOSPITAL ASSOCIATION**

Insurance Carrier

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Docket No. 225,281

**ORDER**

Claimant requested review of the preliminary hearing Order dated January 27, 1998.

**ISSUES**

Claimant developed compartment syndrome in the left leg that required surgical decompression. Claimant contends she developed that syndrome on the night of December 31, 1996, and early morning of January 1, 1997, while working for the respondent. In the alternative, claimant contends her work activities, at a minimum, aggravated the condition.

Respondent and its insurance carrier, on the other hand, contend claimant developed the syndrome during a 45 to 50 minute walk, which claimant took before going to work on the alleged date of accident.

The only issues before the Appeals Board on this review are:

- (1) Did claimant's work activities either cause or aggravate claimant's compartment syndrome?
- (2) Did claimant provide respondent with timely notice of accident?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds as follows:

(1) Claimant, a certified nurse's aide, began to experience mild pain below her knees during a casual 45 to 50 minute walk on the evening of December 31, 1996. Before she reported to work later that night, the pain had completely resolved.

While working the late night hours of December 31, 1996, and the early morning of January 1, 1997, claimant spent several hours on her feet without a break. Because of medical emergencies during her shift, claimant ran to obtain equipment on three different occasions. By 1:30 a.m. claimant felt a burning sensation in her left ankle. By 3:30 a.m. claimant was experiencing severe pain.

Later that morning, claimant was hospitalized by one of respondent's emergency room physicians. Eventually, claimant was diagnosed as having compartment syndrome, commonly known as shin splints, and underwent surgical decompression.

Claimant's treating physician, Steven J. Howell, M.D., indicated in his letter dated July 10, 1997, that claimant's work was in part responsible for her condition:

As far as history of how this actually occurred, Sandra gave me the history that she went for a walk on the night that it happened, not jogging, at about 9:00 PM for about 45 to 50 minutes and felt some bilateral anterior shin splint type discomfort but it was not severe. She went to work and had a very busy evening with patient care and was doing quite a bit of running and at about 1:30, she started noticing her left ankle burning and by 3:30 she had an absolutely severe excruciating compartment syndrome like pain. Based on that, one would have to say the instigation was the running and busyness that she was doing in patient care that evening.

Considering both claimant's testimony and Dr. Howell's opinion, the Appeals Board finds that claimant's work activities either caused or, at a minimum, aggravated the compartment syndrome. Therefore, claimant is entitled to benefits under the Workers Compensation Act for the injury sustained.

(2) The Appeals Board also finds claimant provided respondent with timely notice of her leg injury. Claimant's testimony is uncontroverted that she advised her supervisors of her symptoms at different times during her shift. Under this factual situation where the injury is the result of repetitive microtraumas or overuse rather than a single, sudden event, the Appeals Board finds notice of claimant's symptoms to her supervisors under circumstances where those symptoms are obviously due to work satisfies the notice requirements of K.S.A. 44-520.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated January 27, 1998, should be, and hereby is, reversed and that this proceeding is remanded to the Administrative Law Judge to determine claimant's request for benefits. The Appeals Board does not retain jurisdiction over this proceeding.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March 1998.

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BOARD MEMBER

c: Michael J. Unrein, Topeka, KS  
Wade A. Dorothy, Lenexa, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director